

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

KAREN MILLEN FASHIONS LIMITED and
MOSAIC FASHIONS US LIMITED f/k/a
KAREN MILLEN US LIMITED

Plaintiffs,

v.

KAREN DENISE MILLEN

Defendant.

Civil Action No. 1:14-cv-720-CMH-TCB

**DECLARATION OF MICHAEL KELLY IN SUPPORT OF
PLAINTIFFS' KAREN MILLEN FASHIONS LIMITED AND MOSAIC
FASHIONS US LIMITED f/k/a KAREN MILLEN US LIMITED
OPPOSITION TO MOTION TO DISMISS**

I, MICHAEL KELLY, declare as follows:

1. I am a partner in the law firm of Kenyon & Kenyon LLP, counsel of record in this matter on behalf of Plaintiffs.
2. On April 2, 2014, Defendant Karen Denise Millen ("Defendant" or "Ms. Millen") initiated five cancellation proceedings against Plaintiff Karen Millen Fashions Limited ("KMFL") before the Trademark Trial and Appeal Board, Cancellation Nos. 92058954, 92058960, 92058979, 92058992, 92058994 ("Consolidated Cancellation Proceedings"). On May 19, 2014, KMFL, without seeking an extension, answered each of the five cancellation proceedings. Attached hereto as Exhibit A is a true and correct copy of the Trademark Trial and

Appeal Board docket for the Consolidated Cancellation Proceedings as retrieved from the TTABVUE service on the United States Patent and Trademark Office website.

3. On June 16, 2014, KMFL filed a motion in the Trademark Trial and Appeals Board requesting suspension of Consolidated Cancellation Proceedings pending final disposition of *Karen Millen Fashions Limited et al. v. Karen Denise Millen*, Civil Action No. 1:14-cv-720 (E.D. Va.) filed a day earlier. Attached hereto as Exhibit B is a true and correct copy of KMFL's motion to for suspension. A copy of the complaint in this action is attached thereto as Exhibit B.
4. On June 17, 2014, KMFL, represented by myself and co-counsel, Jeremy S. Boczeko, held an initial discovery conference with Defendant's counsel, Louis S. Ederer, concerning the Consolidated Cancellation Proceedings. During that call, I asked Mr. Ederer if he would accept service of the complaint on Defendant's behalf, to which Mr. Ederer replied that he was not prepared to do so.
5. Attached hereto as Exhibit C is a true and correct copy of an email sent by myself to Louis S. Ederer and Aimee Endicott on June 17, 2014, forwarding copies of the complaint and exhibits to Mr. Ederer, and inquiring, as per the conference call earlier that day, whether Mr. Ederer was authorized to accept service of process on behalf of his client.
6. Attached hereto as Exhibit D is a true and correct copy of an email sent by Louis S. Ederer to me on June 30, 2014, indicating he was not authorized to accept service.
7. Attached hereto as Exhibit E is a true and correct copy of Defendant's response to the Trademark Trial and Appeal Board in which Defendant states that she does not oppose suspension of the Consolidated Cancellation Proceeding pending final disposition of *Karen Millen Fashions Limited et al. v. Karen Denise Millen*, Civil Action No. 1:14-cv-720 (E.D. Va.).

8. Attached hereto as Exhibit F is a true and correct copy of the Trademark Trial and Appeal Board's July 25, 2014 order suspending the Consolidated Cancellation proceedings pending final disposition of *Karen Millen Fashions Limited et al. v. Karen Denise Millen*, Civil Action No. 1:14-cv-720 (E.D. Va.) retrieved from the TTABVUE service on the United States Patent and Trademark Office website.

9. Attached hereto as Exhibit G is a true and correct copy of an letter sent to me by Louis S. Ederer on July 24, 2014 requesting Plaintiffs KMFL and Mosaic Fashions US Limited f/k/a Karen Millen US Limited's withdraw their Complaint in *Karen Millen Fashions Limited et al. v. Karen Denise Millen*, Civil Action No. 1:14-cv-720 (E.D. Va.) in favor litigating those issues in the parties' concurrent litigation in the United Kingdom. Notably, Mr. Ederer does not propose withdrawing the Consolidated Cancellation Proceedings despite arguing that 2004 Agreement for the Purchase and Sale of the Entire Issued Share Capital of Karen Millen Holdings Limited "expressly intended" that any issues relating to that Agreement be litigated in the United Kingdom.

10. Attached hereto as Exhibit H is a true and correct printout of a webpage identifying Plaintiffs Karen Millen Fashions Limited and Mosaic Fashions US Limited f/k/a Karen Millen US Limited's U.S. stores and retailers retrieved from <<http://www.karenmillen.com/StoreLocator/content/fcp-content>>, by selecting "United States" and "Virginia."

11. Attached hereto as Exhibit I is a true and correct printout of Angella Johnson, THE DAILY MAIL, *Break-up, falling for a con-man and why I wept when I sold my £35 million fashion empire*, Nov. 11, 2011, available at <<http://www.dailymail.co.uk/femail/article-2058016/Break-falling-conman-I-wept-I-sold-fashion-empire-35million.html>>.

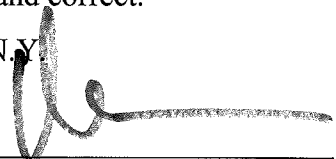
12. Attached hereto as Exhibit J is a true and correct printout of the International Monetary Fund's historical currency conversion table for the month of June 2004 retrieved from http://www.imf.org/external/np/fin/data/rms_mth.aspx?SelectDate=2004-06-30&reportType=REP. According to that table, the U.K. pound sterling to U.S. dollar conversion rate for June 25, 2004 was 1.822500:1. Therefore, as of that date, £35 million (pounds sterling) was the equivalent of \$63,787,500 (U.S. dollars).

13. Attached hereto as Exhibit K is a true and correct copy of the "Declaration Under 37 C.F.R. § 2.20 For Consent Of Use Of Name" retrieved from the TSDR service on the United States Patent and Trademark Office website. The consent is signed by Defendant on behalf of Karen Millen Limited and plainly indicates that it is not limited to any trademark application serial number or filing date.

14. Attached hereto as Exhibit L is a true and correct copy of the "Statement of Use" filed by Karen Millen Limited on September 24, 2003 in connection with U.S. Trademark Application Serial No. 76/129,319 retrieved from the TSDR service on the United States Patent and Trademark Office website. As shown on page 4, Defendant signed the "Statement of Use" in her capacity as "owner" of Karen Millen Limited.

I affirm under penalty of perjury that the above is true and correct.

Executed this 9th day September, 2014, at New York, N.Y.

Signature: 

Michael Kelly